

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

**VICTOR A. ACEVEDO MARIN**  
**FRANCISCA I. GAUD ORTIZ**

Debtors

FIRSTBANK PUERTO RICO

Movant

CASE NO.: 11-11025 (EAG)

CHAPTER 13

**MOTION TO DISMISS**

TO THE HONORABLE COURT:

Comes now movant **FIRSTBANK PUERTO RICO** through its undersigning attorney and very respectfully ALLEGES, STATES and PRAYS:

1. The case of reference was filed on December 29, 2011. The chapter 13 plan dated January 28, 2012 (docket no. 11) was confirmed on March 1, 2012 (docket no. 14).

2. Movant is a secured creditor, as holder of a duly registered personal security interest over a 2010 Mitsubishi Sportback (claim no. 1-2 at Claims' Registry).

3. Debtors failed to comply with payments under the terms of the confirmed plan. According to the records made available by the Trustee, as of November 21, 2013 they owe \$1,200.00. (See *Exhibit "A"*.) Said failure constitutes sufficient cause to request the dismissal of the instant case under section 1307(c) of the Bankruptcy Code.

4. Pursuant to the *Service Members Civil Relief Act*, the data of the Department of the Defense Manpower Data Center confirms that debtors aren't members of the Uniformed Services (US Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health or Coast Guard.) (See *Exhibit "B"*.)

For the above stated reasons, Movant respectfully requests this Court to enter an order dismissing the instant case *for cause*, pursuant to the dispositions of 11 USC §1307(c)(6), on the grounds of *Material default by the debtor to the terms of the confirmed plan* and/or 11 USC §1307(c)(1) *Unreasonable delay by the debtor that is prejudicial to creditors*.

**NOTICE**

Within thirty (30) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this

**Motion to Dismiss**  
**FIRSTBANK Puerto Rico**

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motion has been served or any other party to the action who objects to the relief sought herein, shall file and serve an objection or other appropriate response to this motion with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law, (2) the requested relief is against public policy or (iii) in the opinion of the Court, the interest of justice requires otherwise. (Local Bankruptcy Rule 9013-1(c)(2)(F)).

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 22 day of November, 2013.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy was served by CM/ECF at the authorized address to: all creditors; Alejandro Oliveras Rivera, Esq., Chapter 13 Trustee; Madeline Soto Pacheco, Esq., debtors' attorney and to debtors by regular mail to the address of record: HC-01 Box 2569, Adjuntas, P.R. 00601, as per the attached *List of Creditors*.

//s// Maricarmen Colón Díaz

**MARICARMEN COLON DIAZ**

Attorney for Movant- USDC 211410

MARIA M. BENABE RIVERA- USDC 208906

P.O. Box 9146, Santurce, P.R. 00908-0146

Centro de Servicios al Consumidor (248)

1130 Muñoz Rivera Ave., San Juan, P.R.

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Label Matrix for local noticing  
0104-2  
Case 11-11025-EAG13  
District of Puerto Rico  
Ponce  
Thu Nov 14 09:19:08 AST 2013

BANCO POPULAR PR  
PO BOX 362708  
SAN JUAN, PR 00936-2708

US Bankruptcy Court District of PR  
Jose V Toledo Fed Bldg & US Courthouse  
300 Recinto Sur Street, Room 109  
San Juan, PR 00901-1964

BANCO POPULAR DE PUERTO RICO  
BANKRUPTCY DEPARTMENT  
PO BOX 366818  
SAN JUAN, PR 00936-6818

BANCO POPULAR DE PUERTO RICO  
MORTGAGE SERVICING DEPARTMENT (762)  
PO BOX 362708  
SAN JUAN, PR 00936-2708

BANCO POPULAR DE PUERTO RICO  
PO BOX 71564  
SAN JUAN, PR 00936-8664

DPTO DE TRANSPORTACION Y OBRAS PUBLICAS  
OFICINAS REGIONALES  
PO BOX 4294  
SAN JUAN, PR 00940-1249

FIRST BANK  
BANKRUPTCY DIVISION  
PO BOX 9146  
SAN JUAN PR 00908-0146

FIRSTBANK PUERTO RICO  
DEPARTAMENTO DE AUTOS  
PO BOX 13817  
SAN JUAN, PR 00908-3800

SEARS CREDIT CARDS  
PO BOX 183081  
COLUMBUS, OH 43218-3081

US DEPARTMENT OF EDUCATION  
PO BOX 5609  
GREENVILLE, TX 75403-5609

US Department of Education  
P O Box 65128  
St Paul, MN 55165-0128

WANDA MARTINEZ ORTIZ  
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EDIF P APT 127  
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ALEJANDRO OLIVERAS RIVERA  
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FRANCISCA I GAUD ORTIZ  
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ADJUNTAS, PR 00601-9549

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LUBE & SOTO LAW OFFICES, P.S.C.  
1130 AVE FD ROOSEVELT  
SAN JUAN, PR 00920-2906

MONSITA LECAROS ARRIBAS  
OFFICE OF THE US TRUSTEE (UST)  
OCHOA BUILDING  
500 TANCA STREET SUITE 301  
SAN JUAN, PR 00901

VICTOR A ACEVEDO MARIN  
HC 1 BOX 2569  
ADJUNTAS, PR 00601-9549

End of Label Matrix  
Mailable recipients 17  
Bypassed recipients 0  
Total 17

PRINT INQUIRY

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<b>11-11025-EAG</b>	<b>VICTOR A ACEVEDO MARIN</b> (xxx-xx-2301)	<b>HC 1 BOX 2569 • • ADJUNTAS • PR • 00601</b>	<b>\$600.00 MO</b>	<b>Bar Date(s):</b> 4/29/2012 (has passed) 6/26/2012 (has passed)
	<b>FRANCISCA I GAUD ORTIZ</b> (xxx-xx-7629)	<b>HC 1 BOX 2569 • • ADJUNTAS • PR • 00601</b>		<b>Confirmed:</b> 3/1/2012
	<b>Trustee: ALEJANDRO OLIVERAS RIVERA</b>	<b>Attorney: LUBE AND SOTO LAW OFFICES*</b>		<b>Case Status:</b> ACTIVE-INT 2 AUDIT

Debtor Pay Schedules

Start Date	Number Periods	Amount	How Often	Who's Paying	Order Date	Action
1/28/2012	12.00	\$500.00	MONTHLY	VICTOR A ACEVEDO MARIN	1/10/2012	
1/28/2013	48.00	\$600.00	MONTHLY	VICTOR A ACEVEDO MARIN	1/10/2012	
1/28/2017	end of plan	\$0.00	MONTHLY	VICTOR A ACEVEDO MARIN	1/10/2012	

Forgive Information

Date	Amount	Description
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Payments Expected for Step 1:

Period	Start Date	End Date	Payment Amount Expected	Total
1	1/28/2012	2/27/2012	\$500.00	\$500.00
2	2/28/2012	3/27/2012	\$500.00	\$1,000.00
3	3/28/2012	4/27/2012	\$500.00	\$1,500.00
4	4/28/2012	5/27/2012	\$500.00	\$2,000.00
5	5/28/2012	6/27/2012	\$500.00	\$2,500.00
6	6/28/2012	7/27/2012	\$500.00	\$3,000.00
7	7/28/2012	8/27/2012	\$500.00	\$3,500.00
8	8/28/2012	9/27/2012	\$500.00	\$4,000.00
9	9/28/2012	10/27/2012	\$500.00	\$4,500.00
10	10/28/2012	11/27/2012	\$500.00	\$5,000.00
11	11/28/2012	12/27/2012	\$500.00	\$5,500.00
12	12/28/2012	1/27/2013	\$500.00	\$6,000.00
Total				\$6,000.00

Payments Expected for Step 2:

Period	Start Date	End Date	Payment Amount Expected	Total
1	1/28/2013	2/27/2013	\$600.00	\$600.00
2	2/28/2013	3/27/2013	\$600.00	\$1,200.00
3	3/28/2013	4/27/2013	\$600.00	\$1,800.00
4	4/28/2013	5/27/2013	\$600.00	\$2,400.00
5	5/28/2013	6/27/2013	\$600.00	\$3,000.00
6	6/28/2013	7/27/2013	\$600.00	\$3,600.00
7	7/28/2013	8/27/2013	\$600.00	\$4,200.00
8	8/28/2013	9/27/2013	\$600.00	\$4,800.00
9	9/28/2013	10/27/2013	\$600.00	\$5,400.00
10	10/28/2013	11/27/2013	\$600.00	\$6,000.00
11	11/28/2013	12/27/2013	\$600.00	\$6,600.00
12	12/28/2013	1/27/2014	\$600.00	\$7,200.00
13	1/28/2014	2/27/2014	\$600.00	\$7,800.00
14	2/28/2014	3/27/2014	\$600.00	\$8,400.00
15	3/28/2014	4/27/2014	\$600.00	\$9,000.00
16	4/28/2014	5/27/2014	\$600.00	\$9,600.00
17	5/28/2014	6/27/2014	\$600.00	\$10,200.00
18	6/28/2014	7/27/2014	\$600.00	\$10,800.00
19	7/28/2014	8/27/2014	\$600.00	\$11,400.00
20	8/28/2014	9/27/2014	\$600.00	\$12,000.00
21	9/28/2014	10/27/2014	\$600.00	\$12,600.00
22	10/28/2014	11/27/2014	\$600.00	\$13,200.00
23	11/28/2014	12/27/2014	\$600.00	\$13,800.00
24	12/28/2014	1/27/2015	\$600.00	\$14,400.00
25	1/28/2015	2/27/2015	\$600.00	\$15,000.00
26	2/28/2015	3/27/2015	\$600.00	\$15,600.00
27	3/28/2015	4/27/2015	\$600.00	\$16,200.00
28	4/28/2015	5/27/2015	\$600.00	\$16,800.00
29	5/28/2015	6/27/2015	\$600.00	\$17,400.00
30	6/28/2015	7/27/2015	\$600.00	\$18,000.00
31	7/28/2015	8/27/2015	\$600.00	\$18,600.00
32	8/28/2015	9/27/2015	\$600.00	\$19,200.00
33	9/28/2015	10/27/2015	\$600.00	\$19,800.00
Total				\$19,800.00

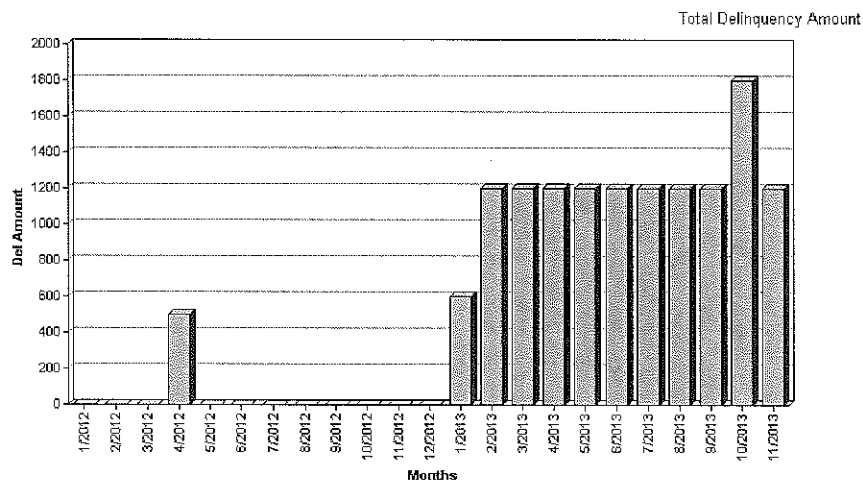
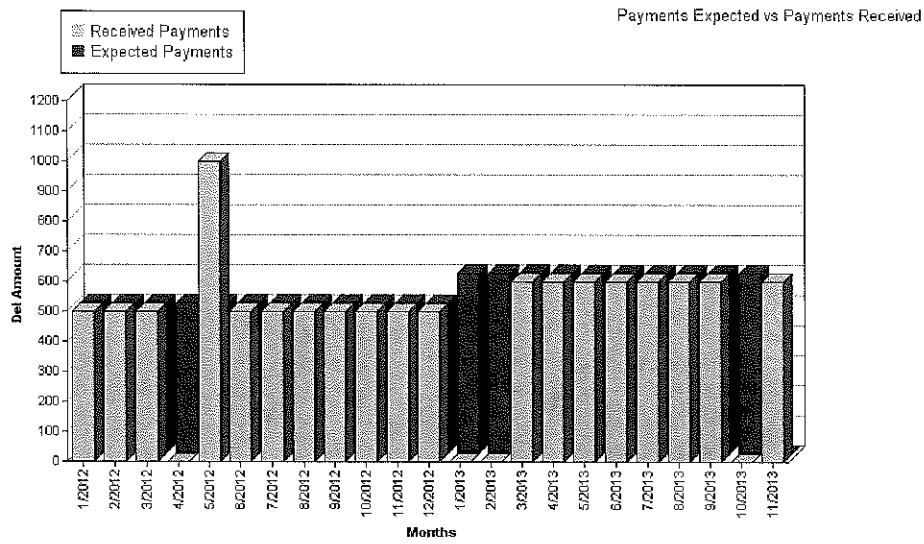
Payments Expected for Step 3:

Period	Start Date	End Date	Payment Amount Expected	Total
1	1/28/2017	2/27/2017	\$0.00	\$0.00
Total				\$0.00

Breakdown for Combined Schedules

Period	Date (Month/Year)	Payment Due	Payment Received	Forgive Amount	Amount Due
1	1/2012	\$500.00	\$500.00		\$0.00
2	2/2012	\$500.00	\$500.00		\$0.00
3	3/2012	\$500.00	\$500.00		\$0.00
4	4/2012	\$500.00			\$500.00
5	5/2012	\$500.00	\$1,000.00		\$0.00
6	6/2012	\$500.00	\$500.00		\$0.00
7	7/2012	\$500.00	\$500.00		\$0.00
8	8/2012	\$500.00	\$500.00		\$0.00
9	9/2012	\$500.00	\$500.00		\$0.00
10	10/2012	\$500.00	\$500.00		\$0.00
11	11/2012	\$500.00	\$500.00		\$0.00
12	12/2012	\$500.00	\$500.00		\$0.00
13	1/2013	\$600.00			\$600.00
14	2/2013	\$600.00			\$1,200.00
15	3/2013	\$600.00	\$600.00		\$1,200.00
16	4/2013	\$600.00	\$600.00		\$1,200.00
17	5/2013	\$600.00	\$600.00		\$1,200.00
18	6/2013	\$600.00	\$600.00		\$1,200.00
19	7/2013	\$600.00	\$600.00		\$1,200.00
20	8/2013	\$600.00	\$600.00		\$1,200.00
21	9/2013	\$600.00	\$600.00		\$1,200.00
22	10/2013	\$600.00			\$1,800.00
23	11/2013		\$600.00		\$1,200.00

Total Delinquent Amount: \$1,200.00



## Department of Defense Manpower Data Center

SCRA 3.0



# Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: ACEVEDO MARINFirst Name: VICTORMiddle Name: A.Active Duty Status As Of: Nov-21-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenseink.mil" URL: <http://www.defenseink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

### More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

### Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: R5B7V10CQ01EHC0



Department of Defense Manpower Data Center

Results as of: Nov-21-2013 05:11:01

SCRA 3.0



**Status Report  
Pursuant to Servicemembers Civil Relief Act**

Last Name: GAUD ORTIZ

First Name: FRANCISCA

Middle Name: I.

Active Duty Status As Of: Nov-21-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individual's active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350



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Certificate ID: D5V3F1ECN01ED90